



PRESS RELEASE

Committee on Transportation & Infrastructure

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Federal Investigation Uncovers Extensive Mismanagement In Amtrak's Use Of Outside Private Legal Firms

Washington, D.C. - A federal review of Amtrak's extensive use of outside legal firms uncovered numerous examples of mismanagement and lack of oversight for more than \$100 million in taxpayer-financed legal fees during a three-year period (2002-2005)

The joint probe by the Amtrak Office of Inspector General (IG) and the U.S. Department of Transportation Inspector General was requested by **U.S. Rep. John Mica (R-FL)**, a senior Member of the House Transportation and Infrastructure Committee, and **U.S. Rep. Don Young (R-Alaska)**, the Chairman of the Transportation and Infrastructure Committee. A copy of the report can be found at:

www.house.gov/transportation/rail/amtraklegal.pdf

The main objectives of the review were to determine whether Amtrak and the federal government received "fair and reasonable value for the legal fees that Amtrak spent for outside counsel" and whether Amtrak's in-house counsel properly managed and monitored the operations and billings by the private legal offices.

"Today, we have found that Amtrak's Legal Department was not properly maintaining legal and billing records, failed to consistently prepare and manage budgets, and never even conducted audits despite documented cases of over-billing, errors and the prohibited practice of block billing," said **Rep. Mica**.

"Some reform efforts are underway, but both the costs and management of unaudited, poorly administered contracts for outside legal services must be brought under control," **Mica** said.

"The financial mess at Amtrak's legal department is much worse than any of us on the Committee could have anticipated," said **Chairman Young**. "Millions and millions of federal dollars have been doled out to private law offices by Amtrak's legal department but the paper trail is clearly incomplete.

"Both the Amtrak and DOT Inspectors General have determined that Amtrak's legal department has not followed its own rules and procedures for working with outside counsel and continues to provide millions of dollars to these outside firms each year without adequate oversight," **Young** said.

(See below for additional comments by Mica and Young).

The probe focused on the top 10 outside law firms hired by Amtrak between June 2002 and June 2005. These top 10 firms billed Amtrak for more than \$40 million in fees out of the estimated total \$102 million Amtrak dispersed to outside legal firms during this three-year period.

Significant Findings By The Inspectors General

- Amtrak did not properly manage outside counsel in a manner that limited costs and protected Amtrak's interests.
- Amtrak did not enforce guidelines which would have been effective in protecting Amtrak's interests and preventing overcharges.

- Amtrak signed agreements with one law firm that significantly supplanted the guidelines and voided its protections.

Amtrak Did Not Enforce Guidelines:

The joint Amtrak/DOT Inspectors General review determined that Amtrak's in-house counsel did not enforce the required guidelines and did not:

- Adequately review outside counsel legal billings.
- Properly manage outside counsel staffing and rates.
- Prevent prohibited billing practices.
- Perform audits anticipated by the agency's guidelines.

Prohibited Practice Of Block Billing Was Common

- All top 10 firms submitted invoices with block billing, a practice prohibited by the guidelines. Block billing lumps different tasks together under one entry on an invoice, obscuring the cost of each task.

- During the three-year review period, 31.4 percent of fees invoiced by the top 10 firms were block billed.

- Amtrak's in-house Managing Attorneys failed to question or disallow block billing, even though it is easily recognized and prohibited

- One firm block billed almost exclusively until September 2005.

Other Major Problems Uncovered By Amtrak/DOT Inspectors General Review

- Amtrak's in-house counsel primarily selects large, metropolitan firms with high rates.

- Some of the rates Amtrak is paying are generally high, from over \$450 per hour for an eighth-year associate (2002) to \$575 per hour for a partner (2004).

- The guidelines state that Amtrak expects at least the same discount offered to an outside firm's other government clients or large corporate clients, whichever is lower. The Amtrak/DOT Inspectors General found no way to verify that the discounts Amtrak obtained were the best to which they were entitled, nor did they find any indication that Amtrak attempted to verify that the discounts were in fact given.

- No evidence was found that Amtrak in-house counsel ever conducted an audit of invoices.

- One firm's invoices frequently did not show hourly rates or the time spent on each task, as required, so it was impossible to determine whether invoices totaling \$143,000 were correct.

- Only one of the top 10 firms in the review routinely submitted receipts or other evidence of reimbursable expenses.

- Two outside counsel firms voluntarily disclosed billing errors when they became aware of the Amtrak/DOT Inspectors General review. Each firm proposed to refund about \$30,000, but one firm has withdrawn its offer.

- One of the firms most frequently used by Amtrak circumvented the budget requirement and other requirements in the guidelines by negotiating several agreements from 2003 to 2005 that supplanted the guidelines. The terms of the agreements were substantially less beneficial to Amtrak and more beneficial to the law firm than were the terms required by the guidelines.

- The Inspectors General reported finding the use of highly-paid attorneys and staff for work that is traditionally performed by lower-paid staff.

- Amtrak has no record of approval for changes in hourly rates.

- Records indicate duplicate payments on some accounts.

In-House Counsel Does Not Have Standard Record Handling Policies

- Some Managing Attorneys rely on outside counsel to maintain files and have no recourse if the firms are unable or unwilling to provide the records.

- Amtrak in-house attorneys, including two high-ranking officials, were unable to readily and promptly produce their own files related to the top billing firm. In-house counsel said the files "must have been thrown out."

- Amtrak in-house counsel was frequently unable to respond promptly and thoroughly to requests from the Amtrak/DOT Inspectors General.

Rep. John Mica's Statement

"Congress has a responsibility to conduct aggressive oversight of Amtrak, especially with a taxpayer subsidy of over a billion dollars a year.

"Unfortunately today's IG report discloses yet another example of problems with our nation's current passenger rail service operations. Amtrak's management of outside legal services has been found to be in serious disarray, with virtually no attention focused on costs and expenditures.

"This report follows on a number of critical evaluations of Amtrak's operations and expenditures.

"We have found that the taxpayers are subsidizing some passenger tickets over \$600 each, and Amtrak is losing over \$600 million each year on long-distance routes.

"We have found that the taxpayers are underwriting Amtrak's food and beverage costs at a loss of \$83 million a year, and that Amtrak was spending \$2 for every \$1 it makes for this service.

"We have found that the taxpayers are underwriting an Amtrak Mechanical Department that had no quality control system in place and was rife with waste, fraud, abuse and mismanagement.

"And now today, we have found that Amtrak's Legal Department was not properly maintaining legal and billing records, failed to consistently prepare and manage budgets, and never even conducted audits despite documented cases of over-billing, errors and the prohibited practice of block billing.

"Some reform efforts are underway, but both the costs and management of unaudited, poorly administered contracts for outside legal services must be brought under control."

Chairman Don Young's Statement

"I want to be clear that I believe Amtrak is a critical part of our delicately balanced transportation network. I strongly support passenger rail in America, but when Amtrak requires in excess of \$1 billion in taxpayer subsidies each year to function, I believe it's my duty to ensure Amtrak runs efficiently and doesn't waste taxpayer money.

"For years, Amtrak boasted it was on a 'glide path' to operational self-sufficiency. Clearly, those assertions were dishonest to Congress and the American taxpayer and did not reflect its true financial condition. Now we find one more department where the money Amtrak has been receiving is being spent with little oversight. Waste has been found in every Amtrak department that we have reviewed in the last four years.

"Congress and the public deserve nothing less than complete, honest, accurate and timely information on how this money is being spent.

"Amtrak is continually showing us it is incapable of effectively spending the \$1 billion in federal funding it receives each year. One billion dollars a year is a lot of money and could accomplish a lot towards improving Amtrak's passenger rail service if it wasn't wasted on massive food and beverage losses and undocumented and questionable legal billings from outside private law firms.

"The financial mess at Amtrak's legal department is much worse than any of us on the Committee could have anticipated. Millions and millions of federal dollars have been doled out to private law offices by Amtrak's legal department but the paper trail is clearly incomplete.

"Both the DOT and Amtrak Inspectors General have determined that Amtrak's legal department has not followed its own rules and procedures for working with outside counsel and continues to provide millions of dollars to these outside firms each year without adequate oversight.

"Congressman Mica and I requested this investigation based on the numerous other financial and operational irregularities discovered in previous federal probes. Since investigations began several years ago, more than 200 Amtrak employees outside the law department have been fired for theft or financial irregularities with the company. Countless problems have been uncovered in Amtrak's maintenance department and Amtrak has accomplished what most people thought would be impossible - it loses \$83 million a year in its food and beverage operation, losing \$2 for every \$1 it receives.

"We intend to continue our oversight of Amtrak and these problems until we finally get some real reforms in place and see some tangible results."

**For additional information, access the Transportation & Infrastructure Committee website at:
www.house.gov/transportation**

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